

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

SHELTON R. WILLIAMS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-08-136-F
)	
L. T. HANSON,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing *pro se*, brings this action pursuant to 42 U.S.C. § 1983, alleging a violation of his constitutional rights. United States District Judge Stephen P. Friot has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B). For the reasons set forth herein, the undersigned recommends that the complaint be dismissed without prejudice, due to Plaintiff's failure to pay the initial partial filing fee.

By order of this Court dated March 5, 2008, Plaintiff was required to pay an initial partial filing fee in the amount of \$8.17 on or before March 25, 2008. Plaintiff was advised that failure to pay the initial partial filing fee or show cause in writing for his failure to do so, could result in dismissal of this action without prejudice to refile.

A review of the court file reveals that Plaintiff has not paid the initial partial filing fee, nor has he attempted to show cause since the Court's March 5 order why he could not timely pay it. Therefore the undersigned recommends that this action be dismissed without prejudice. Local Civil Rule 3.4(a); Cosby v. Meadors, 351 F.3d 1324, 1326-33 (10th Cir.

2003) (upholding dismissal of civil rights complaint based on noncompliance with orders requiring installments on the filing fee or to show cause for the failure to pay). See also Kennedy v. Reid, No. 06-1075, 208 Fed. Appx. 678 (10th Cir. Dec. 13, 2006) (finding no abuse of discretion in district court's dismissal without prejudice of section 1983 action due to litigant's failure to timely pay initial filing fee); Campanella v. Utah County Jail, Nos. 02-4183, 02-4215, 02-4235, 78 Fed. Appx. 72, 73 (10th Cir. Oct. 10, 2003) (same).¹

RECOMMENDATION

Accordingly, because Plaintiff has neither paid the partial filing fee as ordered by this court nor shown good cause for such failure, it is recommended that this action be dismissed without prejudice to refiling. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by May 7, 2008, in accordance with 28 U.S.C. §636 and Local Civil Rule 72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. Moore v. United States, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 17th day of April, 2008.


DOYLE W. ARGO
UNITED STATES MAGISTRATE JUDGE

¹These unpublished dispositions are cited as persuasive authority pursuant to Tenth Circuit Rule 32.1.